

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE COMPANIES

PART 731
WHOLESALE SERVICE QUALITY
TELECOMMUNICATIONS CARRIERS

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AUTHORITY: Implementing Section 13-712(g) and 13-902(c)(3) of the Public Utilities Act [220 ILCS 5/13-712(g) and 220 ILCS 5/13-902(c)(3)]

SUBPART A: GENERAL

Section 731.100 Purpose and Application of Part

This Part governs carrier to carrier wholesale service quality standards and remedies in accordance with Section 13-712(g) of the Public Utilities Act (220 ILCS 5/13-712(g)), including, but not limited to, establishing guidelines for the development and submittal of Wholesale Service Quality Plans for Level 1 Carriers (as defined below), establishing wholesale service quality obligations for Level 2 Carriers (as defined below), and establishing the criteria pursuant to which certain carriers are or may be exempt from Subparts B, C, D, E and F of this rule. Unless otherwise indicated, the provisions of this Part are applicable to all providers of Wholesale Service to the extent that they are providing Wholesale Services.

Section 731.105 Definitions

“Act” or “PUA” means The Public Utilities Act (220 ILCS 5/1-101 et seq.).

“Adopt” or “adopted” shall mean, in addition to their customary and usual meaning, approve or approved.

“Billing” means the processes and systems used to prepare and provide bills to carriers for services ordered and rendered by the providing carrier. Also includes functions required to investigate and dispute bills by the carrier receiving the bill.

“Bona fide request” or “BFR” means a telecommunications carrier’s written request to another telecommunications carrier to provide a wholesale service.

“Business Day” means Monday through Friday, inclusive, excluding weekends and holidays observed and published by the providing carrier.

“Carrier” means a telecommunication carrier as defined in Section 13-202 of the Act (220 ILCS 5/13-202).

“Carrier to carrier wholesale service quality” means the level of quality of telecommunications services, measured pursuant to the Standards and Measures adopted in this Part, that one telecommunications carrier sells or provides to another telecommunications carrier for the latter carrier’s use in providing a telecommunications service to end users.

“Change Management” means the series of processes and procedures negotiated between two or more carriers which detail the guidelines by which operation support system (OSS) changes are requested and made and for which notice is provided to the users of the OSS.

"Collocation" means the placement by one carrier of its network equipment at the premises of another carrier.

"Commission" means the Illinois Commerce Commission.

~~"Customer Service Record" or "CSR" means account information that a providing carrier maintains about an end user and includes, but is not limited to the billing name, service address, and billing address of the end user. A CSR shall not be requested until after the requesting carrier is in receipt of a signed letter of authorization or third party verification pursuant to Sections 13-902 and 13-903 of the PUA.~~ "Customer Service Record" or "CSR" means account information that a providing carrier maintains about an end user and includes, but is not limited to the billing name, service address, and billing address of the end user. A CSR shall not be requested until after the requesting carrier has received authorization from the end-user customer.

"Firm Order Confirmation" or "FOC" means the document or electronic record by which a Provisioning Carrier notifies a requesting carrier that the service order has been received and what due date has been assigned.

"High Frequency Portion of the Loop" or "HFPL" means the frequency range above the voiceband on a copper loop facility that is being used to carry analog circuit-switched voiceband transmissions. Access to the HFPL is commonly called line sharing or line splitting.

"Interconnection Trunks" means a network facility used to interconnect two switches of different carriers.

"Local Exchange Carrier" or "LEC" means a carrier certificated by the Commission to provide intra-exchange and/or inter-exchange service within the same MSA.

"Local Loop" means a transmission facility between a distribution frame (or its equivalent) in a carrier's central office and the loop demarcation point at an end-user customer premises. Local Loop includes HFPL.

"Loss Notification" means the notice or notification given to a requesting carrier that uses the Provisioning Carrier's facilities to offer service to its end user when the end user of the service decides to switch its service to the Provisioning Carrier or to another carrier. This notification is sent from the Provisioning Carrier to the losing carrier to notify them that they have lost the end user customer. Typically, this notification is the mechanism through which the losing carrier obtains information to know that it should cease billing the end user for a given service that one carrier sells or provides to another carrier, as a component of, or for the provision of, telecommunications service to end users.

"Maintenance and Repair" means the actions taken or functions used to create trouble reports, view status history, receive proactive status reports, and clear and close trouble reports.

"Measure" means the specific component or attribute of a Wholesale Service that is being measured to assess service quality pursuant to an adopted or agreed upon standard. Measures are often based on the pre-ordering, ordering, provisioning, maintenance and repair, or billing functions used to deliver the service.

"Market Service Area" or "MSA" shall have the same meaning ascribed to those terms in Section 13-208 of the Act (220 ILCS 5/13-208).

"Operation Support Systems" or "OSS" means the various systems and business processes used by a Carrier to conduct business with its customers. Typically OSS covers pre-ordering, ordering, provisioning, maintenance and repair and billing functions.

"Ordering" means the sequence of steps involved in placing an order with a carrier.

"Preexisting Plan" means:

- a) A plan implemented by or for a Carrier prior to the effective date of this rule (but not necessarily effective on such date) that contains one or more of the components required for a Wholesale Service Quality Plan as set forth in Section 731.300 ("Pre-Rule Plan"), the terms and provisions of which have been specifically reviewed and approved by the Commission within the previous three (3) years in a docketed proceeding (the scope of which was limited to review and approval of a Pre-Rule Plan); or
- b) If the terms and conditions of a Pre-Rule Plan have not been specifically reviewed and approved by the Commission within the previous three (3) years in a docketed proceeding (the scope of which was limited to review and approval of a Pre-Rule Plan) for such Carrier, then the most recent Pre-Rule Plan implemented by such Carrier pursuant to a Commission order or, if no Pre-Rule Plan was implemented by such Carrier pursuant to a Commission order, the most recent Pre-Rule Plan implemented by such Carrier on a voluntary basis.

"Pre-ordering" means the exchange of specific information (usually an inquiry and response process) between two carriers for the purpose of gathering appropriate information before submitting a request or order.

"Pre-Rule Plan" shall have the meaning ascribed to such term in the definition of "Preexisting Plan."

"Provision" or "provisioning" means to supply, or the supplying of, telecommunications service to a user. With respect to OSS, "provisioning" also means the functions used to

manage and monitor an order during the period between the order placement and order completion.

“Provisioning Carrier” means the carrier provisioning, or committing or offering to provision a Wholesale Service to another carrier.

“Reject Notice” means a method by which a carrier notifies a requesting carrier that a service request or order is rejected.

“Remedy” means a payment or credit from one carrier to another carrier or the State of Illinois for failure to provide Wholesale Services at the standard prescribed per Section 731.315 for Level 1 carriers and Section 731.610 for Level 2 carriers.

“Requesting Carrier” means the carrier requesting, ordering or receiving a Wholesale Service from another carrier.

“Resold Local Services” means the sale, for purposes of resale, of a complete telecommunications path (i.e., switch, port, and loop) and associated support (e.g., 911, OS/DA) by a facilities based carrier to another carrier.

“Rural Exemption” means the exemption granted to rural telephone companies under Section 251(f) of the Telecommunications Act.

“Standard” means the rate or level at which a measure is to be provided.

“Telecommunications Act” means the Telecommunications Act of 1934 as Amended by the Telecommunications Act of 1996.

“Trouble Report” shall have the meaning ascribed to such term in Code Part 730 (83 Ill. Admin. Code Part 730).

“Unbundled Local Loop” means the physical connection from the end user’s premise to the carrier’s point of presence, excluding switching or ports, provided by one carrier to another carrier.

“Unbundled Loop Return” means the release for reuse by a carrier of an unbundled local loop to a different carrier when the subscriber, whose local telephone service resides on the unbundled loop, authorizes a change in its local telephone service to a different carrier.

“Wholesale Out of Service” means a situation in which the Wholesale Service can not be used for its intended function. “Out of Service” does not include a situation in which the essential elements of a Wholesale Service are still operational but there are extra features that are not working (e.g., for dial tone wholesale services a line is not Out of Service if the call blocking feature is not working but the line has dial tone and can be

used to receive and place calls; for non-dial tone wholesale services a line is out of service when the circuit is incapable of transporting voice and/or data.).

“Wholesale Service” means any telecommunications service subject to the Commission’s jurisdiction that one carrier sells or provides to another carrier, as a component of, or for the provision of, telecommunications service to end users.

“Wholesale Service Emergency Situation” means a single event that causes an interruption of service or installations affecting Wholesale Service provided by a carrier. The emergency situation shall begin with the first carrier whose Wholesale Service is interrupted by the single event and shall end with the restoration or installation of the service of all affected carriers. The term “single event” shall include:

- a declaration made by the applicable State or federal governmental agency that the area served by the local exchange carrier is either a State or federal disaster area; or

- an act of third parties, including acts of terrorism, vandalism, riot, civil unrest, or war, or acts of parties that are not agents, employees or contractors of the local exchange carrier, or the first 90 calendar days of a strike or other work stoppage; or

- a severe storm, tornado, earthquake, flood or fire, including any severe storm, tornado, earthquake, flood or fire that prevents the local exchange carrier from restoring service due to impassable roads, downed power lines, or the closing off of affected areas by public safety officials.

The term “Wholesale Service Emergency Situation” shall not include:

- a single event caused by high temperature conditions alone; or

- a single event caused, or exacerbated in scope and duration, by acts or omissions of the local exchange carrier, its agents, employees or contractors or by the condition of facilities, equipment, or premises owned or operated by the local exchange carrier who is claiming that the interruption of service is due to an Emergency Situation; or

- any service interruption that occurs during a single event listed above, but is not caused by those single events; or

- a single event that the local exchange carrier who is claiming that the interruption of service is due to an Emergency Situation could have reasonably foreseen and taken precautions to prevent; provided, however, that in no event shall such carrier be required to undertake precautions that are technically infeasible or economically prohibitive.

"Wholesale Service Quality Plan" or "Plan" means a plan filed or adopted pursuant to Subparts B, C, D and E of this Part.

"Wholesale Special Access" means a Wholesale Service utilizing a dedicated non-switched transmission path used for carrier-to-carrier services from the customer's NID (Network Interface Device) or POI (Point Of Interface) to the carrier's POI (Point Of Interface). A non-switched transmission path may include, but is not limited to, DS1, DS3, and OCn facilities as well as links for SS7 signaling, database queries, and SONET ring access.

Section 731.110 Policies, Goals and Objectives

This Part is adopted for the purposes stated herein and should be interpreted in a manner consistent with the policies, goals and objectives stated herein. The Commission's policies for establishing carrier to carrier wholesale service quality standards and remedies have been developed to ensure the following basic goals and objectives:

- a) To foster a competitive market consistent with the protection of end users.
- b) To encourage the maintenance of service quality on a consistent basis to satisfy the public interest.
- c) To develop the competitive offering of telecommunications services that will increase innovation and efficiency, and which may also lead to reduced prices for consumers.
- d) To ensure reliable telecommunications service which the Commission determines to be essential to the health, safety and welfare of the citizens of the State of Illinois.
- e) To ensure reliable carrier to carrier wholesale telecommunications service which the Commission determines to be essential to obtaining and maintaining an open telecommunications market and to the provision of reliable telecommunications service by competitive carriers.
- f) To ensure that the economic benefits of competition in all telecommunications service markets are realized as effectively as possible.
- g) To ensure that wholesale services are delivered at a level of quality that provides the competitive carriers with a meaningful opportunity to compete in the market for customers.

- h) To define clearly the Commission's requirements, standards and processes with respect to carrier to carrier wholesale service quality and remedies.
- i) To adopt, as required by law, rules, regulations and remedies for assessing, and assuring, the quality of carrier to carrier wholesale service for carriers and services that are under the Commission's jurisdiction.
- j) To establish procedures and guidelines for adopting carrier to carrier Wholesale Service Quality Plans, including remedies, for Level 1 carriers (as defined below) that establish minimum requirements for such plans while allowing the tailoring of individual plans that take into account the particular design and operation of each carrier's network and operation support systems.
- k) To establish minimum and uniform measures and standards to assess carrier to carrier wholesale service quality for Level 2 carriers (as defined below), remedies to ensure compliance with such standards, and other requirements to promote and ensure carrier to carrier wholesale service quality.
- l) To allow the Commission to effectively monitor carrier to carrier wholesale service quality, and to impose additional measures, standards and remedies where required to assure or maintain the quality of carrier to carrier wholesale services in the State of Illinois.

Section 731.115 Classifications of Carriers

- a) Level 1 Carriers - For purposes of this rule, the following Carriers shall be Level 1 Carriers:
 - 1) LECs in the State of Illinois that provide Wholesale Service and have a Preexisting Plan; or
 - 2) LECs in the State of Illinois that have obligations pursuant to Section 251(c) of the Telecommunications Act, with equal to or greater than 400,000 subscriber access lines in service; or
 - 3) LECs in the State of Illinois that provide Wholesale Service and are directed pursuant to a Commission order to comply with all of the requirements of Subparts B, C, D and E pursuant to Section 731.635.
- b) Level 2 Carriers — For purposes of this rule, the following carriers shall be Level 2 carriers:

- 1) LECs in the State of Illinois that provide Wholesale Service and satisfy each of the following requirements:
 - A) Have obligations pursuant to Section 251(c) of the Telecommunications Act, with less than 400,000 subscriber access lines in service;
 - B) Do not have a Preexisting Plan;
 - C) Do not have a Wholesale Service Quality Plan adopted by the Commission pursuant to Subpart E;
 - D) Have not been directed pursuant to a Commission order to comply with all of the requirements of Subparts B, C, D and E pursuant to Section 731.635; and
 - E) Do not have a currently effective Rural Exemption.
- c) Level 3 Carriers - For purposes of this rule, the following carriers shall be Level 3 carriers:
 - 1) LECs in the State of Illinois with a Rural Exemption from the obligations of Section 251(c) of the Telecommunications Act.
- d) Level 4 Carriers- For purposes of this rule, the following carriers shall be Level 4 carriers:
 - 1) LECs in the State of Illinois that do not have obligations pursuant to Section 251(c) of the Telecommunications Act and are not Level 3 Carriers.

Section 731.120 Applicability of Subparts B, C, D and E

The provisions of Subparts B, C, D and E are applicable to all Level 1 Carriers.

Section 731.130 Applicability of Subpart F

The provisions of Subpart F are applicable to all Level 2 Carriers.

Section 731.140 Applicability of Subpart G

The provisions of Subpart G are applicable to all Level 3 Carriers.

Section 731.150 Applicability of Subpart H

The provisions of Subpart H are applicable to all Level 4 Carriers.

SUBPART B: PROCEDURE FOR LEVEL 1 CARRIERS

Section 731.200 Filing of Tariffs Regarding Wholesale Service Quality Plans

- a) On April 1, 2003, and every two years thereafter, every Level 1 carrier shall file with the Commission for review and approval a tariff containing its Wholesale Service Quality Plan as specified in, and pursuant to, Subparts B, C, D and E of this Part. For any filing due after April 1, 2003, if a Level 1 carrier proposes to maintain, without any additions, deletions or modifications, its existing tariff containing its Wholesale Service Quality Plan, the Level 1 carrier may file, in lieu of filing a new tariff, a verified statement confirming that it will maintain in effect, without any additions, deletions or modifications, its existing tariff until modified pursuant to this Part.
- b) Any carrier designated by the Commission as a Level 1 carrier pursuant to Sections 731.115(a)(3) and 731.635 shall file a tariff containing its Wholesale Service Quality Plan within ninety (90) days of its designation as a Level 1 carrier by the Commission, and, after one year from the filing of its initial Wholesale Service Quality Plan, shall file all subsequent Wholesale Service Quality Plans pursuant to paragraph (a) of this Section.
- c) To the extent the Commission determines that a Level 1 carrier's Wholesale Service Quality Plan should be investigated, modified, updated or in any way amended for any reason prior to the end of a biennial period, the Commission may initiate a proceeding to investigate, modify, update or amend the previously adopted Wholesale Service Quality Plan. Additionally, if another carrier seeks modification of a previously adopted Plan on an interim basis, it may file a petition originating a proceeding at any time.

Section 731.210 Review of Tariffs Regarding Wholesale Service Quality Plans

For each investigation or review of a Wholesale Service Quality Plan filed as a tariff with the Commission for review and approval pursuant to Section 731.200, unless otherwise ordered by the Administrative Law Judge or the Commission, the Commission shall

initiate a proceeding and schedule a prehearing conference (see 83 Ill. Adm. Code 200.300) to occur no more than 21 days after the matter is docketed ~~filing date specified in Section 731.200~~. The purpose of the proceeding shall be to determine the adequacy and appropriateness of each Plan with respect to the requirements of the Act and this Part, and to adopt a Wholesale Service Quality Plan for the filing carrier. The carrier filing the Plan shall be a party to the proceeding. Other parties may intervene, pursuant to the Commission's Rules of Practice. The proceeding will be scheduled, unless otherwise ordered by the Administrative Law Judge or the Commission, so that a Proposed Order is presented to the Commission by the Administrative Law Judge no later than 3 months after the date of the carrier's filing as specified in Section 731.200. The Commission will adopt a carrier's Plan if it complies with the requirements of Subparts B, C, D and E of this rule.

Section 731.220 Wholesale Service Quality Plan Filing Requirements

- a) The Wholesale Service Quality Plan filing requirements set forth in this Section are designed to assist the Commission and Commission Staff in performing a review of Wholesale Service Quality Plan filings under this Part. Information and schedules contained in the filing requirements may be designed to provide support for the carrier's position or to provide supplemental information to facilitate the Commission Staff's review of the filing. The information supplied under the filing requirements shall not be construed as evidence or made part of the record unless it is offered by a party under the applicable Commission rules (83 Ill. Adm. Code 200.610 to 200.700).
- b) Each carrier subject to this Subpart shall, on the date specified in Section 731.200 for the filing of a tariff containing its Wholesale Service Quality Plan, file with its tariff the prepared direct testimony and exhibits of carrier personnel and any expert witnesses in support of the carrier's Plan. Prepared direct testimony shall be in compliance with the Commission's Rules of Practice (83 Ill. Adm. Code 200). At a minimum, the prepared direct testimony and exhibits shall address and/or include the following:
 - 1) The carrier's wholesale service quality record over the last two years, including a summary of performance and of any remedy payments or credits paid, given and/or assessed over that time period.
 - 2) All changes to the carrier's Wholesale Service Quality Plan most recently adopted by the Commission or, if such carrier does not have a previously adopted Wholesale Services Quality Plan but does have a Preexisting Plan, all changes to the carrier's Preexisting Plan, and the basis for all such changes relied upon by the carrier.

- 3) The extent to which the carrier's Wholesale Service Quality Plan has successfully facilitated a competitive telecommunications market.
- 4) Compliance of the carrier's Wholesale Service Quality Plan with the requirements of Subpart C of this Part.
- 5) Compliance of the carrier's Wholesale Service Quality Plan with the criteria for review described in Subpart D of this Part.
- 6) A listing of proposed changes to the carrier's existing Wholesale Service Quality Plan.
- 7) Probable impact of proposed changes to the carrier's existing Wholesale Service Quality Plan.
- 8) Any support for the impact of proposed changes.

The pre-filing requirements of this paragraph shall only apply to the initial and biennial tariff filings under Section 731.200(a) and the initial tariff filing under Section 731.200(b), and shall not apply to any interim filing prior to the end of a biennial period.

c) Waiver of Filing Requirements

- 1) Requests for waivers from these filing requirements shall be filed with the Commission at least 60 days prior to the filing of new tariffs for which the waiver would be effective, if granted. Requests for waivers will be acted on by the Commission or, if directed by the Commission, the Manager of the Administrative Law Judge ("ALJ") Division or her appointed representative (Administrative Law Judge) and will be in writing.
- 2) A request for waiver of any of the provisions of these filing requirements shall be in writing, verified, and must set forth the specific reasons in support of the request. The Commission or ALJ (where directed by the Commission) shall grant the request for a waiver upon good cause shown by the carrier. In determining whether good cause has been shown, the Commission or ALJ shall consider, among other things:
 - A) whether other information, which the carrier would provide if the waiver is granted, permits the Commission Staff to review the filing in a complete and timely manner;

- B) the degree to which the information which is the subject of the waiver request is maintained by the utility in the ordinary course of business or available to it from the information which it maintains;
 - C) the expense to the utility in providing the information, which is the subject of the waiver request.
- 3) Proprietary and Confidential Information. Any data, information or studies which are confidential, proprietary or trade secret in nature shall be so marked by the carrier. The carrier shall separate from its filing that information which is so marked as confidential, proprietary or trade secret in nature from the material which is to be made public.

Section 731.230 Effective Wholesale Service Quality Plan Pending Review and Adoption By the Commission

- a) A tariff containing a Level 1 carrier's Wholesale Service Quality Plan shall become effective in accordance with the rules and procedures generally applicable to tariffs under the PUA.
- b) For a carrier with a Preexisting Plan, its Preexisting Plan shall be its effective Wholesale Service Quality Plan from the effective date of this rule through the effective date of its tariff due to be filed April 1, 2003, under Section 731.200. The provisions of this paragraph shall apply notwithstanding any provision, term or condition of the Preexisting Plan, or any related Commission order, providing for the termination or expiration of such plan due to or based on the passage of time.
- c) For a carrier designated by the Commission as a Level 1 carrier pursuant to Sections 731.110 and 731.635, that carrier shall not have an effective plan pending the effective date of its initial tariff to be filed under Section 731.200 unless the Commission ordered or established an Interim Wholesale Service Quality Plan. If the Commission ordered an Interim Wholesale Service Quality Plan under Section 731.635, the Interim Wholesale Service Quality Plan shall be that carrier's effective Wholesale Service Quality Plan pending the effective date of its initial tariff to be filed under Section 731.200.

SUBPART C: PLAN REQUIREMENTS FOR LEVEL 1 CARRIERS

Section 731.300 General Plan Requirements

Each Wholesale Service Quality Plan shall include, at a minimum, the following components.

- a) A comprehensive set of wholesale measures and standards covering all necessary parts of a carrier's interaction with their wholesale customers. These measures and standards should include, but not be limited to, the following activities; pre-ordering, ordering, provisioning, maintenance and repair, billing and change management. See section 731.305
- b) Fully defined business rules on a per measure basis that are sufficient to describe what is being reported by the measure. Business rules shall include an applicable title, detailed definition, any exclusions, applicable standards or benchmarks, levels of disaggregation, and the specific calculation methodology used by the carrier. See Section 731.310.
- c) Self-executing remedy provisions deemed sufficient to modify a Level 1 carrier's actions in the event of noncompliance with the standards contained therein. See Section 731.315.
- d) Established benchmarks and standards on a per measure basis to provide a clear indication of the minimum performance level the carrier intends to provide. See Section 731.310.
- e) Reporting policies and procedures so that all parties understand exactly when and how the Level 1 carrier will report data. See Section 731.320. These policies and procedures should also cover data and remedy restatements in addition to the regular monthly reporting of carrier performance.
- f) A review process scheduled at regular intervals by which parties may propose changes to the performance measures contained in the Wholesale Service Quality Plans as changes occur in the industry.
- g) Audits scheduled at regular intervals to ensure that the data reported by the carrier is valid, reliable and adheres to the published business rules. See Section 731.325. The carrier must retain for three years, for purposes of regular audits, the original source data used to calculate the performance measurement results in its original, raw, or unmodified form. Regular audits should validate both the measure data being reported as well as the remedy calculations.

Section 731.305 Services Covered

The services to be covered for a Level 1 carrier shall include, but not be limited to, those Wholesale Services covered in such carrier's most recent Wholesale Service Quality Plan adopted pursuant to this Part or, if such carrier does not have a Wholesale Services Quality Plan adopted pursuant to this Part but does have a Preexisting Plan, those Wholesale Services covered in such carrier's Preexisting Plan. The services to be covered for a Level 1 carrier shall include wholesale special access services, and shall include wholesale special access measures for ordering, provisioning, and repair. The Commission may, for good cause shown, (i) include Wholesale Services not yet provided by the carrier (including but not limited to emerging services) or (ii) exclude specific Wholesale Services in adopting each carrier's Wholesale Service Quality Plan.

Section 731.310 Measures and Standards

Each Wholesale Service Quality Plan shall include measures and standards consistent with the requirements of Section 731.300(a). The specific measures and standards included in each Wholesale Service Quality Plan shall be as determined by the Commission. No measures or standards may be added, modified, or deleted from a Wholesale Service Quality Plan adopted by the Commission pursuant to Subpart E without the review and approval of the Commission.

Section 731.315 Remedies

Each Wholesale Service Quality Plan shall include self executing remedy provisions consistent with the requirements of Section 731.300(c). The specific remedy provisions included in each Wholesale Service Quality Plan shall be determined by the Commission in accordance with this Part. The Remedy provisions included in the Plan filed by a Level 1 carrier shall be consistent with the remedy provisions included in the Plan most recently adopted pursuant to this Part by the Commission or, if such carrier does not have a Wholesale Services Quality Plan adopted pursuant to this Part but does have a Preexisting Plan, the Remedy provisions included in such carrier's Preexisting Plan. No changes may be made to the Remedy provisions included in any Plan adopted by the Commission without the review and approval of the Commission.

Section 731.320 Reporting

Each carrier's Wholesale Service Quality Plan shall provide that the Level 1 carrier will report monthly data to the Commission and to carriers purchasing Wholesale Services. At a minimum, the monthly data shall include the total number of transactions on a per measure basis, the number of instances in which standards contained in the Level 1 carrier's Wholesale Service Quality Plan were not met on a per measure basis, and

calculations supporting any remedies paid to carriers purchasing Wholesale Services from the Level 1 carrier.

Each carrier's Wholesale Service Quality Plan shall indicate the process it will follow each month for reporting including, without limitation, the date performance data and remedy amounts will be made available. The reporting process shall also include the timelines and procedures the carrier will follow when making data and or remedy restatements.

Section 731.325 Auditing

Each Wholesale Service Quality Plan adopted by the Commission shall comply with the requirements of Section 731.300(g), provide for periodic audits of the wholesale performance data by an independent auditing firm, include the frequency and scope of the required audits, and indicate responsibility for payment of audits. Audits should be provided for both the measures being reported as well as for any remedy payments. Level 1 carriers must follow the auditing requirements set forth in their respective Wholesale Service Quality Plans. Each Plan shall, in any event, provide for both Commission initiated audits as well as audits initiated by requesting carriers.

Level 1 carriers shall retain all records required to support wholesale performance relative to this rule for at least three (3) years. Audits are necessary to ensure that data reported by the carriers is valid and reliable and adheres to the carrier's filed Plan.

SUBPART D: PROVISIONS APPLICABLE TO ALL LEVEL 1 CARRIERS

Section 731.400 Treatment and Effect of Wholesale Service Emergency Situations

The standards contained in any Plan will not be considered to be violated for the period of delay if such delay is due to a Wholesale Service Emergency Situation. Notwithstanding anything to the contrary in this Part, in those situations where a standard cannot be satisfied at all as a result of a Wholesale Service Emergency Situation, the failure to satisfy such standard shall not be deemed to be a violation of the applicable standard set forth in such Plan.

Section 731.410 Additional Reporting Requirements

- a) A Wholesale Service Quality Plan adopted pursuant to Subpart E shall be posted to both the Commission's web site and the Level 1 carrier's web site no more than thirty (30) days after entry of the Commission's order adopting such Plan.

- b) Performance relative to a Level 1 carrier's Wholesale Service Quality Plan shall be posted to the Level 1 carrier's web site and made available to the Commission and other carriers on a monthly basis. Level 1 carriers shall also make available to the Commission both aggregate and individual carrier performance data, and shall make available to other carriers access to the aggregate data and their own performance data.
- c) Additionally, the following information shall be reported monthly to the Commission by Level 1 carriers:
 - 1) The total dollar amount of wholesale service quality remedy payments and credits paid, given and/or assessed.
 - 2) The five highest dollar credit and payment amounts assessed and/or paid on a per measure basis.
 - 3) Any wholesale service quality remedy payments and credits not included in the amount reported under subparagraph (c)(1) above but claimed due or owing by purchasing carriers.
 - 4) Any changes to previously reported metrics data or remedy payments or credits made by the company during the past month and a detailed explanation for why the changes to previously reported metrics data or remedy payments or credits occurred.

Section 731.420 Effect of Interconnection Agreements

If a Level 1 carrier is providing Wholesale Service to another carrier pursuant to an interconnection agreement and those carriers have negotiated the interconnection agreement or an amendment to the interconnection agreement after the effective date of this Part which expressly references this Section and purports to amend any of the standards or requirements of the Level 1 carrier's Wholesale Service Quality Plan, then those standards and requirements contained in the Level 1 carrier's Wholesale Service Quality Plan shall not apply to such carriers (i) if, but only to the extent, so provided in the interconnection agreement or amendment and (ii) provided further that the changes from or to the Level 1 carrier's Wholesale Service Quality Plan are not contrary to the public interest. In the event that such Level 1 carrier also provides wholesale service to another carrier and such carriers have not negotiated an interconnection agreement or an amendment to an interconnection agreement after the effective date of this Part which expressly references this Section and purports to amend any of the standards or requirements of the Level 1 carrier's Wholesale Service Quality Plan, then the standards and measures in the Level 1 carrier's Wholesale Service Quality Plan shall apply.

SUBPART E: COMMISSION REVIEW AND ADOPTION OF
PLANS FOR LEVEL 1 CARRIERS

Section 731.500 Commission Review and Adoption of Wholesale Service Quality Plans

- a) Adoption. Following hearings on each Plan or petition filed, or proceeding commenced, pursuant to Section 731.200, the Commission shall adopt a Wholesale Service Quality Plan for each carrier. The Plans adopted by the Commission may be those Plans as filed by the Level 1 carriers or as modified by the Commission.
- b) Basis for Adoption. In adopting a Wholesale Service Quality Plan for each carrier, the Commission shall address and consider each of the following:
 - 1) Whether the Plan contains clearly articulated, pre-determined measures and standards, which encompass a comprehensive range of carrier-to-carrier performance.
 - 2) Whether each measure has a clearly articulated definition, or "business rule," which sets forth the manner in which the data is to be collected by the carrier, lists any relevant exclusions, and states the applicable performance standards.
 - 3) Whether the Plan contains an effective mechanism that is designed to detect and sanction poor performance when it occurs on both an individual measure and aggregate basis.
 - 4) Whether the Plan subjects the Level 1 carrier to potential liability sufficient to provide a meaningful and significant incentive to comply with the designated performance standards.
 - 5) Whether liability under the Plan's enforcement mechanism would actually accrue at meaningful and significant levels when performance standards are missed.
 - 6) Whether the Plan contains a self-executing mechanism that does not leave the door open to litigation and appeal.
 - 7) Whether the Plan contains reasonable assurances that the reported data is accurate and that the reported data is able to be audited.
 - 8) Whether the Plan complies with, and satisfies the goals of, this Part 731.

- 9) Whether the Plan complies with the requirements set forth in Subparts B, C, D and E of this Part 731, including but not limited to Section 731.300.

SUBPART F: OBLIGATIONS OF LEVEL 2 CARRIERS

Section 731.600 Services Covered and Exemption from Reporting Requirements

Services Covered. Unless otherwise indicated in this Subpart, the provisions of Subpart F are applicable to a Level 2 carrier to the extent the Level 2 carrier provides or offers the applicable service. Level 2 carriers shall be subject to wholesale service quality standards as provided below for the following wholesale services, to the extent the carrier offers or provides the service:

- a) Unbundled Local Loops;
- b) Interconnection Trunks;
- c) Resold Local Services;
- d) Collocation;
- e) Loss Notification; and
- f) Customer Service Record

Section 731.605 Measures and Standards

- a) Firm Order Confirmations - Level 2 Carriers shall provide FOCs or reject notices for Wholesale Services within the following timeframes, as measured from the time of receipt of an accurate and complete service request to the return of a FOC or reject notice:
 - 1) Unbundled Local Loops - within 24 hours
 - 2) Interconnection Trunks - within 10 business days
 - 3) Resold Local Services - within 24 hours
 - 4) Collocation - within 10 business days
 - The start time for requests received after the end of the business day will be the beginning of the next business day.
 - There are two types of reject notices that may be issued by a carrier: syntax, which occur if required fields are not included in a service request; and content, which occur if invalid data is provided in a field.
 - A rejected service request must be corrected and resubmitted before provisioning can begin.
- b) Provisioning - Level 2 Carriers shall provision wholesale services within the following timeframes, as measured from the time of receipt of a

complete and accurate service request to completion of the requested service:

- 1) Unbundled Local Loops - within 5 business days
- 2) Interconnection Trunks - within 30 business days
- 3) Resold Local Services - within 5 business days
- 4) Collocation - within 90 business days

- The required due date is the later of: (1) the last day of the interval set forth above, or the provisioning date requested by the wholesale customer.
- The provisioning intervals, above, will not apply if the Level 2 Carrier demonstrates that the request(s) is not technically feasible and/or that the requested facilities are not available.
- When a loop must be conditioned to remove bridge taps and load coils in order to provide a digitally capable loop or HFPL, the providing carrier must provide the conditioned (digitally capable) loop or HFPL within 8 days of receipt of an accurate and complete service request, rather than within 5 days as set forth above. However, provisioning intervals do not apply to digitally capable loops and HFPL when conditioning of the loop to meet the request would result in a significant degradation of the voiceband service that the Level 2 carrier is providing over that same loop.

- c) Maintenance and Repair - Level 2 Carriers shall clear Wholesale Out of Service trouble reports within the following intervals, as measured from the time of receipt of an accurate and complete trouble report to the time the trouble report is cleared:

- 1) Unbundled Local Loops - within 24 hours
- 2) Interconnection Trunks - within 8 hours
- 3) Resold Local Services - within 24 hours
- 4) Collocation - within 8 hours

- All non-Out Of Service (i.e., "service affecting") trouble reports must be cleared by the end of the next business day after receipt of non-Out Of Service trouble report.
- For a trouble report to be considered complete, the wholesale customer must provide the carrier: 1) the end-user customer's telephone number, 2) the carrier's circuit identification number; 3) a detailed description of the trouble conditions and other trouble prescreening information.

- d) Loss Notifications - Level 2 carriers shall provide Loss Notifications within the following timeframes :

- 1) UNE-Platform - within 24 hours
 - 2) Resale - within 24 hours
- e) Customer Service Record – Level 2 carriers shall provide CSRs to the carriers requesting the CSR within 24 hours.
- f) The standards set forth in Section 731.605 will not be considered to be violated for the period of delay if such delay is due to the following:
- 1) as a result of a negligent or willful act on the part of the wholesale customer;
 - 2) as result of a malfunction of equipment owned or operated by the wholesale customer;
 - 3) as a result of, or is extended by, a wholesale service emergency situation;
 - 4) as a result of the wholesale customer missing an appointment, provided that the violation is not further extended by the carrier;
 - 5) as a result of a wholesale customer request to change the scheduled appointment, provided that the violation is not further extended by the carrier;
 - 6) as a result of a carrier's right to refuse service to a wholesale customer as provided in an interconnection agreement, tariff or under applicable federal or state law; or
 - 7) as a result of a lack of facilities where a wholesale customer requests service at a geographically remote location, a wholesale customer requests service in a geographic area where the carrier is not currently offering service, or there are insufficient facilities to meet the wholesale customer's request for service, subject to carrier's obligation for reasonable facilities planning and the wholesale customer's obligation for forecasting.

Notwithstanding anything to the contrary in this Subpart, in those situations where a standard cannot be satisfied at all as a result of the occurrence of any of the causes identified in clauses 1) through 7) above, the failure to satisfy such standard shall not be deemed to be a violation of the applicable standard set forth in Section 731.605.

Section 731.610 Remedies

If a Level 2 Carrier fails to comply with Section 731.605 of this Part, it shall provide credits to the purchasing Carrier in the following amounts:

- a) For Firm Order Confirmation and Reject Notice Failures, Level 2 Carriers shall provide credits equal to 20% of the monthly recurring charge for the service covered in Section 731.605(a) of this Part.

- b) For Provisioning Failures - Level 2 Carriers shall provide credits equal to 20% of the monthly recurring charge for each day beyond the timeframe set forth in Section 731.605(b) that the Level 2 carrier fails to provision a wholesale service covered in Section 731.605(b) of this Part.
- c) For Maintenance and Repair Failures - Level 2 Carriers shall provide credits equal to 20% of the monthly recurring charge for each day beyond the timeframe set forth in Sections 731.605(c)(1) and 731.605(c)(3) that the Level 2 carrier fails to clear a Wholesale Out of Service trouble report for the services covered in Sections 731.605(c)(1) and 731.605(c)(3) of this Part, and 10% of the monthly recurring charge for every 8 hours beyond the timeframe set forth in Sections 731.605(c)(2) and 731.605(c)(4) that the Level 2 carrier fails to clear a Wholesale Out of Service trouble report for the services covered in Sections 731.605(c)(2) and 731.605(c)(4) of this Part.
- d) For Loss Notification Failures - Level 2 Carriers shall provide a credit of \$1 per failure.
- e) For Customer Service Record Failures - Level 2 Carriers shall provide a credit of \$1 per failure.

Section 731.615 Review

All Level 2 carriers that elect to participate in the Commission's biennial review of Subpart F: Obligations Of Level 2 Carriers must submit any proposed changes to Subpart F to the Commission for review and approval. To the extent the Commission finds Subpart F should be revisited for any reason prior to the end of a biennial period, the Commission may initiate a proceeding to update or amend the previously approved Subpart F. Additionally, if any carrier seeks modification to the approved Subpart F on an interim basis, they may file a petition originating a proceeding at any time.

Section 731.620 Reporting

- a) Each Level 2 Carrier shall report monthly results on a quarterly basis to the Commission. At a minimum, the information reported shall include:
 - 1) The total dollar amount of wholesale service quality credits on a per measure basis.
 - 2) Any wholesale service quality credits not included in the amount reported under subparagraph (a)(1) above but claimed due or owing by purchasing carriers.

- 3) Level of performance on an aggregate basis by measure (or as a whole with respect to all measures for service provided to all wholesale customers).
 - 4) Top 3 carriers receiving wholesale service quality credits from the Level 2 carrier.
- b) Each Level 2 Carrier shall also report monthly data on a quarterly basis to carriers purchasing wholesale services. At a minimum, the monthly data shall include the number of reportable transactions, the number of instances in which standards contained in Section 731.605 were not met, and calculations supporting remedies paid as a result of Section 731.610.
- c) Each carrier shall provide to the Commission, on a biennial basis, a business rule document for each measure it reports. These business rule documents shall be sufficient to describe what is being reported by the measure, and compliant with the standards set out in Section 731.605. The business rules shall include an applicable title, detailed definition, any exclusions, levels of disaggregations and the specific calculation methodology used by the carrier.

Section 731.625 Auditing

Carriers purchasing wholesale services from a Level 2 carrier may request an independent audit of the reported results. To the extent the independent audit confirms the specific concern of the carrier purchasing wholesale services from a Level 2 carrier, as specifically identified in writing to the Level 2 carrier prior to requesting the audit, the Level 2 carrier shall be responsible for the cost of the independent auditor associated with the specific concern identified in writing prior to the audit. If the independent auditor does not confirm the concern of the carrier purchasing wholesale services from a Level 2 carrier, the carrier purchasing wholesale services will be responsible for the cost of the independent audit. Any dispute over payment of audit costs will be resolved by the Commission pursuant to a petition filed with the Commission by either party. Audits of a Level 2 carrier's records shall be limited to no more than 2 per calendar year, unless otherwise authorized by the Commission.

Unless otherwise authorized by the Commission, a Level 2 carrier shall make all records required by this rule available to the Commission or its authorized representatives at any time upon request. A carrier shall make customer proprietary network information available to the Commission to the extent allowed by law. A carrier shall retain all records required by this rule for at least three (3) years.

Section 731.630 Effect of Interconnection Agreement

If a Level 2 carrier is providing Wholesale Service to another carrier pursuant to an interconnection agreement and those carriers have negotiated the interconnection agreement or an amendment to the interconnection agreement after the effective date of this Part which expressly references this Section and purports to amend any of the standards and requirements contained in this Subpart, then those standards and requirements contained in this Subpart shall not apply to such carriers (i) if, but only to the extent, so provided in the interconnection agreement or amendment and (ii) provided further that the changes from or to the standards and requirements contained in this Subpart are not contrary to the public interest.. In the event that such Level 2 carrier also provides wholesale service to another carrier and such carriers have not negotiated an interconnection agreement or an amendment to an interconnection agreement after the effective date of this Part which expressly references this Section and purports to amend any of the standards and requirements contained in this Subpart,, then the standards and measures in this Subpart shall apply.

Section 731.635 Application of Level 1 Requirements to Level 2 Carriers and Conversion to Level 1

- a) A Level 2 carrier may be required to comply with some or all of the Level 1 requirements established in Subparts B, C, D and E of this Part only after the Commission considers and rules upon the following items:
 - 1) The technical feasibility of compliance with each Subparts B, C, D and E requirement;
 - 2) The economic feasibility of compliance with each Subparts B, C, D and E requirement;
 - 3) The expected volume of wholesale service activity to be provisioned by the Level 2 carrier;
 - 4) Whether the benefits expected to accrue to requesting carriers justify the costs expected to be incurred by the provisioning carrier to comply each Subpart B, C, D and E requirement, and;
 - 5) With which Subpart B, C, D and E requirements that carrier must comply and by what time period.
- b) A carrier directed pursuant to a Commission order to comply with all of the requirements of Subparts B, C, D and E shall be a Level 1 carrier effective 90 days after the date of the Commission's order unless a different conversion date is specified in the Commission's order. A carrier directed pursuant to a Commission order to comply with some but not all of the

requirements of Subparts B, C, D and E shall remain a Level 2 carrier, but must, unless a different time period is provided in the Commission's order, comply with such Level 1 requirements as directed by the Commission commencing 90 days after the date of the Commission's order.

- c) In any proceeding to determine whether a carrier should be required to comply with some or all of the Level 1 requirements established in Subparts B, C, D and E of this Part, the Commission may order or establish an Interim Wholesale Service Quality Plan to be tariffed and effective as ordered by the Commission.

SUBPART G: PROVISIONS APPLICABLE TO LEVEL 3 CARRIERS

Section 731.700 Exemption From Certain Subparts

Subparts B, C, D, E and F of this Part shall not apply to LECs with a Rural Exemption pursuant to Section 251(f) of the Telecommunications Act.

Section 731.705 Conversion to Level 2

- a) A carrier whose Rural Exemption is terminated by a Commission order pursuant to Section 251(f) of the Telecommunications Act will become a Level 2 carrier and shall, unless a different time period is provided in the Commission's order, comply with all of the Level 2 requirements established in Subpart F of this Part effective 90 days after the date of the Commission's order.
- b) Notwithstanding paragraph (a) of this Section, a Level 3 carrier whose Rural Exemption is terminated by a Commission order pursuant to Section 251(f) of the Telecommunications Act may petition the Commission for an exemption from some or all of the Level 2 requirements established in Subpart F of this Part. The burden of proof in establishing the right to an exemption under this paragraph shall be upon the petitioner. The petition shall include a demonstration that the requested exemption would not harm consumers and would not impede the development or operation of a competitive market. In ruling on any such petition, the Commission may also consider and rule upon the following items:
 - 1) The technical feasibility of compliance with each Subpart F requirement;
 - 2) The economic feasibility of compliance with each Subpart F requirement;

- 3) The expected demand for wholesale services covered under Subpart F;
- 4) Whether the benefits accrued to competing carriers justify the costs incurred by carrier necessary to comply each Subpart F requirement;
- 5) With which Subpart F requirements that carrier must comply and by what time period; and
- 6) Whether the carrier needs to comply with Subpart F if the carrier enters into an agreement with a competing carrier whereby the competing carrier agrees to accept different wholesale service quality standards than those contained in Subpart F.

SUBPART H: PROVISIONS APPLICABLE TO LEVEL 4 CARRIERS

Section 731.800 Services Covered and Exemption From Certain Subparts

Services Covered. Level 4 carriers shall be subject to the following wholesale service quality standards as provided below for the following services, to the extent the carrier offers or provides the service:

- a) Customer Service Record
- b) Unbundled Loop Return
- c) Loss Notification

Section 731.805 Measures and Standards

Level 4 Carriers shall be subject to the following wholesale service measures and standards as provided below for the following services, to the extent the carriers offers or provides the service:

- | | |
|-----------------------------|-------------------|
| a) Unbundled Loop Return | - within 24 hours |
| b) Loss Notification | - within 24 hours |
| c) Customer Service Record: | - within 24 hours |

Section 731.810 Remedies

If a Level 4 Carrier fails to comply with Section 731.805 of this Part, it shall provide credits to the purchasing Carrier in the following amounts:

- | | |
|--------------------------|-------------------|
| a) Unbundled Loop Return | - \$1 per failure |
|--------------------------|-------------------|

- b) For Customer Service Record Failures - \$1 per failure
- c) Loss Notification - \$1 per failure

Subparts B, C, D, E, F and G of this Part shall not apply to Level 4 carriers (LECs without obligations pursuant to Section 251(c) of the Telecommunications Act and that are not Level 3 Carriers).

Section 731.815 Application of Level 2 Requirements to Level 4 Carriers and Conversion to Level 2

- a) If a Level 4 carrier receives a bona fide request for wholesale services and either (i) agrees to provide such services or (ii) is obligated to provide such services under the PUA or the Telecommunications Act, that carrier may be required, after notice and hearing, to comply with some or all of the Level 2 requirements established in Subpart F of this Part. In connection with any such hearing, the Commission must consider and rule upon each of the following items:
 - 1) The technical feasibility of compliance with each Subpart F requirement;
 - 2) The economic feasibility of compliance with each Subpart F requirement;
 - 3) The expected demand for wholesale services covered under Subpart F;
 - 4) Whether the benefits accrued to competing carriers justify the costs incurred by carrier necessary to comply each Subpart F requirement;
 - 5) With which Subpart F requirements that carrier must comply and by what time period; and
 - 6) Whether the carrier needs to comply with Subpart F if the carrier enters into an agreement with a competing carrier whereby the competing carrier agrees to accept different wholesale service quality standards than those contained in Subpart F.
- b) A carrier directed pursuant to a Commission order to comply with all of the requirements of Subpart F shall become a Level 2 carrier effective 90 days after the date of the Commission's order unless a different conversion date is specified in the Commission's order. A carrier directed pursuant to a Commission order to comply with some but not all of the requirements of Subpart F shall remain a Level 4 carrier, but must, unless

a different time period is provided in the Commission's order, comply with such Level 2 requirements as directed by the Commission commencing 90 days after the date of the Commission's order.

SUBPART I: PROVISIONS APPLICABLE TO ALL CARRIERS

Section 731.900 Notice of Termination of Wholesale Service

No Provisioning Carrier offering or providing Wholesale Service to a Requesting Carrier shall terminate, discontinue, or abandon such service once initiated except upon at least 35 days prior written notice (the "Termination Notice") to the Commission and the Requesting Carrier. Notwithstanding anything to the contrary herein, no Termination Notice shall be required for interruptions in service due to Wholesale Service Emergency Situations. Nothing in this Section 731.900 shall be construed to abrogate or diminish the rights and obligations of a carrier under the Public Utilities Act or Commission rules (including without limitation Section 13-406 of the Public Utilities Act and Code Part 735).